

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UHS OF DELAWARE, INC.

Plaintiff,

v.

UNITED HEALTH SERVICES, INC., et.
al.

Defendants.

Case No. 1:12-cv-00485

The Honorable Christopher C.
Conner

Electronically Filed

**DEFENDANT PROFESSIONAL HOME CARE, INC.'S MOTION TO
DISMISS THE SECOND AMENDED COMPLAINT FOR FAILURE TO
STATE A CLAIM PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 12(b)(6)**

Defendant Professional Home Care, Inc. (“Defendant PHCI”)¹ by their undersigned counsel, hereby submits the following Motion to Dismiss For Failure to State a Claim Pursuant to Federal Rule of Civil Procedure 12(b)(6) and sets forth as follows:

¹ Defendants United Health Services, Inc., United Health Services Hospitals, Inc., Delaware Valley Hospital, Inc., Twin Tier Home Health, Inc., Ideal Senior Living Center, Inc., Ideal Senior Living Center Housing Corporation, United Medical Associates, P.C., and United Health Services Foundation, Inc. have filed a separate Motion to Dismiss the Second Amended Complaint on other grounds.

1. Plaintiff UHS of Delaware, Inc. (“Plaintiff”) filed the present action on March 16, 2012, against Defendant UHSI. The Complaint was served on April 30, 2012. Pursuant to an unopposed motion, Plaintiff obtained leave to file a Second Amended Complaint on June 6, 2012. Additional defendants and an additional cause of action were added to the Second Amended Complaint. Pursuant to this Court’s Order, Defendants’ time to respond to the Second Amended Complaint was extended until July 3, 2012.

2. The Second Amended Complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim as to Defendant PHCI, as will be more fully demonstrated in Defendant’s Memorandum of Law in Support.

WHEREFORE, Defendant respectfully requests this Court to dismiss Plaintiff’s Second Amended Complaint with prejudice.

Dated: July 3, 2012

Respectfully submitted,

/s/ Allen C. Warshaw

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CERTIFICATE OF NON-CONCURRENCE

The undersigned hereby certifies that counsel for Defendant Professional Home Care, Inc., has conferred with counsel for Plaintiff, in a good faith attempt to resolve the matter of this Motion without Court intervention but was unable to reach any agreement. Plaintiff opposes this Motion.

Dated: July 3, 2012

Respectfully submitted,

/s/ Allen C. Warshaw
Allen C. Warshaw

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing
DEFENDANTS' MOTION TO DISMISS THE SECOND AMENDED
COMPLAINT FOR FAILURE TO STATE A CLAIM PURSUANT TO RULE
12(b)(6) was served this 3rd day of July 2012 on the following, by first class mail,
postage prepaid and ECF filing:

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